

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 7
ORLY GINGER,	:	Case No. 19-10926-tmd
Debtor.	:	

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DALIA GINGER,	:	Adv. P. No. 20-01010
Plaintiff,	:	

-against-	:	DECLARATION
ORLY GINGER, MICHAEL BOWEN, ARIE	:	
GINGER, ARNOLD BROSER, DAVID BROSER,	:	
ERIC HERSCHMANN, THE GINGER LITIGATION	:	
TRUST, ADBG LLC, TEDCO INC., and	:	
DEBORAH PIAZZA as chapter 7 trustee,	:	
Defendants.	:	

X

IRA DANIEL TOKAYER, declares the following to be true under penalty of perjury:

1. I am counsel to plaintiff Dalia Genger in this adversary proceeding. This Declaration is submitted: (a) in opposition to the motions to dismiss filed by the Chapter 7 Trustee (the “Trustee”) and various defendants (ECF docs.12, 14, 16); and (b) in support of her plaintiff’s cross-motion for summary judgment. I am fully familiar with the matters set forth herein.

2. Attached hereto as Exhibit A is Judge Forrest’s 2015 Opinion & Order in the U.S. District Court for the Southern District of New York.

3. Attached hereto as Exhibit B is the U.S. Court of Appeals for the Second Circuit’s 2016 affirmance of Judge Forrest’s 2015 Opinion & Order in the U.S. District Court for the Southern District of New York.

4. Attached hereto as Exhibit C is Judge Forrest’s 2018 Opinion & Order in the

U.S. District Court for the Southern District of New York.

5. Attached hereto as Exhibit D is the U.S. Court of Appeals for the Second Circuit's 2019 affirmance of Judge Forrest's 2018 Opinion & Order in the U.S. District Court for the Southern District of New York.

6. Attached hereto as Exhibit E is the October 30, 2004 promise from Sagi Genger to Dalia Genger.

7. Attached hereto as Exhibit F is the November 10, 2004 indemnity from Orly Genger to Sagi Genger.

8. Attached hereto as Exhibit G is the Genger Litigation Trust Agreement (filed under seal).

9. Attached hereto as Exhibit H is the Reply Declaration of Sagi Genger, sworn to on July 7, 2014 (without exhibits).

10. Attached hereto as Exhibit I is an excerpt from the transcript of the deposition of Sagi Genger, dated March 20, 2014.

11. Attached hereto as Exhibit J is the \$10,000,000 Credit Agreement between Arie Genger and ADBG LLC, dated September 19, 2018 (filed under seal).

12. Attached hereto as Exhibit K is the Trial Subpoena of David Broser, dated June 13, 2016, Affidavit of David Broser in support of motion to quash, dated June 16, 2016, and Order granting motion to quash, dated August 1, 2016.

13. Attached hereto as Exhibit L is the transcript of the deposition of Michael Bowen, dated October 5, 2018.

14. Attached hereto as Exhibit M are Orly Genger's Responses to the First Set of Post-Judgment Discovery Requests, dated October 9, 2018.

15. Attached hereto as Exhibit N are the 2013 Settlement Agreement and Amendments.

16. Attached hereto as Exhibit O are Eric Herschmann's UCC-1 Financing Statements.

17. Attached hereto as Exhibit P are Arie Genger's UCC-1 Financing Statements.

18. Attached hereto as Exhibit Q is the Escrow Agreement, dated March 31, 2017 (filed under seal).

19. Attached hereto as Exhibit R is the transcript of the hearing before, and bench rulings by, Judge Freeman, dated January 8, 2019.

20. Attached hereto as Exhibit S is an excerpt from the trial transcript before the Supreme Court of the County of New York, dated March 23, 2015.

21. Attached hereto as Exhibit T is the Summons and Verified Complaint of Orly Genger in the Supreme Court of the County of New York, dated July 8, 2009.

22. Attached hereto as Exhibit U is an excerpt from the transcript of the deposition of Arie Genger, dated April 3, 2019 (filed under seal).

23. Attached hereto as Exhibit V is the transcript of the bench ruling of the Honorable Ira Gammernan, dated May 4, 2017.

24. Attached hereto as Exhibit W is a chart purporting to show the payment of legal fees by Arie Genger on behalf of Orly Genger (filed under seal).

25. Attached hereto as Exhibit X is a letter from Dalia Genger's counsel dated January 31, 2014, and a follow-on letter by Orly Genger's counsel dated February 6, 2014, both regarding the Escrow Agreement.

26. Attached hereto as Exhibit Y is an excerpt from the transcript of the deposition of David Broser, dated July 1, 2020.

27. Attached hereto as Exhibit Z is an excerpt from the transcript of the deposition of David Broser, dated May 1, 2019.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of July, 2020, in New York, New York.

/s/

IRA DANIEL TOKAYER